IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17254 of 2004

Between:

1 Atyam Vasu Deva Rao, S/o. Kama Raju,
R/o. Penugonda, Penugonda (M), West Godavari District.
2 Sheik Ahmed Ali, S/o. Sheik Ibrahim,
R/o. Penugonda, Penugonda (M), West Godavari District.
3 Inkula Kasi Viswanadham Gupta, S/o. Venkata Narasayya,
R/o. Penugonda, Penugonda (M), West Godavari District.

..... PETITIONERS

AND

1 The District Collector, West Godavari District, Eluru.
2 The Revenue Divisional Officer, Kovvur, West Godavari District.
3 The Mandal Revenue Officer, Penugonda Mandal, West Godavari District.
4 The Penugonda Gram Panchayat, Penugonda, Penugonda Mandal, West Godavari District.
Rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any other appropriate Writ, order or direction declaring the action of Respondents in taking steps to demolish the buildings of the Petitioners bearing Assessment No.3901-Door No. 31-44, situated Main Road, Cherukuwada, H/o. Penugonda, Door No.3-26, Door No.1-18, situated at Main Road, Penugonda, Penugonda Mandal, W.G. District, as illegal, arbitrary and violative of principles of natural justice and also violative of Art.14, 16 and 300-A of Constitution of India and issue consequential direction to the

Respondents not to demolish the same.

Counsel for the Petitioner:MR.K.CHIDAMBARAM

Counsel for the Respondent No.1 to 3: GP FOR REVENUE

The Court at the admission stage made the following ORDER :

Heard learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for respondent
Nos.1 to 3. None appears for respondent No.4.

Petitioners state that they have constructed buildings in their respective own sites, without any deviations and encroachments, by duly obtaining permission from the authorities concerned and have been paying the necessary taxes regularly. While so, respondents 3 and 4, under the guise of widening of the roads, laid identification marks beyond 50 feet, though it is intimated that they would widen the road at 34 feet. They further state that the respondents have not issued any prior notice intimating their proposed action of demolishing the constructions in their sites. Therefore, the petitioners approached this Court, by filing the present writ petition, invoking the extraordinary jurisdiction under Article 226 of the Constitution of India, contending that the respondents have no power or authority to demolish their buildings, without initiating acquisition proceedings in accordance with law.

Having heard the learned counsel on either side and having perused the material available on record, it is seen that the main grievance of the petitioners is that the respondents, without following the due procedure as contemplated under the law and without issuing any prior notice of demolition, are proceeding to widen the road up to 50 feet.

The learned Government Pleader for Revenue appearing for respondent Nos.1 to 3 produced before this Court a letter addressed by the Mandal Revenue Officer, Penugonda, the third respondent herein and the same is placed on record, wherein, it is stated that a meeting was held by the Revenue Divisional Officer, Kovvur and other revenue officials on 10.09.2004 with the residents of the vicinity, who are going to be affected with the removal of encroachments on the main road, 35 people attended the said meeting and gave their consent to remove their encroachments within 34 feet width, the Survey Team measured

main road in the presence of the concerned building owners/representatives and laid identification marks up to 34 feet width and the minor part of the building corners and edges (i.e. Sun shades, projections, front elevations only) of the petitioners are going to be affected up to one feet or one and a half feet width only.

In view of the same, though the petitioners voluntarily agreed to remove the building corners and edges (i.e. Sun shades, projections, front elevations) etc., the respondents have to follow the due procedure even for removing the same by issuing necessary notice to the petitioners. If any person declines to remove the encroachments voluntarily, it is open for the respondents to proceed further in accordance with the procedure as contemplated under law.

The writ petition is accordingly disposed of. No costs.

29.09.2004

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To

1 The District Collector, West Godavari District, Eluru.
2 The Revenue Divisional Officer, Kovvur, West Godavari District.
3 The Mandal Revenue Officer, Penugonda Mandal, West Godavari District.
4 The Penugonda Gram Panchayat, Penugonda, Penugonda Mandal, West Godavari District., Rep. by its Secretary.

5 2CCs to the G.P for Revenue, High Court Buildings, Hyderabad(O.U.T).

6 2CD copies